

Approved as Submitted: December 14, 2005

**CITY OF MORGAN HILL
JOINT SPECIAL CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – NOVEMBER 30, 2005**

CALL TO ORDER

Mayor Pro Tempore/Vice-chair Tate called the special meeting to order at 5:30 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Grzan, Sellers, Tate
Late: Council/Agency Member Carr (arrived for closed sessions)
Absent: Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

1.

PUBLIC EMPLOYEE APPOINTMENT

Authority:	Government Code 54957
Consideration of Appointment:	City Attorney
Attendees:	City Manager, Interim City Attorney, Bob Murray

2.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority:	Government Code 54956.8
Property:	17440 Monterey Road, APN: 726-14-028
Negotiating Parties:	
For City:	City Manager, Director of Business Assistance & Housing Services, City Attorney
For Property Owners:	Edward & Irene Enderson
Closed Session Topic/Under Negotiation:	Price and Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tempore/Vice-chair Tate opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Pro Tempore/Vice-chair Tate adjourned the meeting to Closed Session at 5:33 p.m.

RECONVENE

Mayor Pro Tempore/Vice-chair Tate reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Interim City Attorney/Agency Counsel Siegel announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITIONS

Mayor Pro Tempore Tate presented a Certificate of Appreciation to Amy Uhl and Teresa DelPrete for their accomplishments in starting the "Pack a Lunch for a Friend in Mississippi" program to send decorated and filled lunch bags to children who were victims of Hurricane Katrina.

PRESENTATION

Special Assistant to the City Manager Julie Spier & Senior Project Manager Jim Dumas presented the City Council with a certificate; designating the Morgan Hill Aquatics Center as the winner of the Silver LEED Award – 2005. Mr. Dumas informed the Council that the certificate and the certification plaque would be permanently installed at the Aquatics Center to commemorate the City's "green" efforts in the construction of the Center.

CITY COUNCIL SUBCOMMITTEE REPORT

None

CITY MANAGER REPORT

City Manager Tewes brought the Council up to date on some administrative actions that affect solar system building permits. He noted that there have been some concerns raised about the fees charged in Morgan Hill and other communities for the installation of solar systems. He informed the Council that the fees charged for solar systems are on the basis of a combination permit. Staff uses the value of the construction times a factor contained in the building code to equal the solar system building permit fee. He said that in most cases, the combination permit fee is the most cost efficient for developers or those proposing to install systems. However, for the solar systems that led to Morgan Hill being amongst the

highest permit fees, he informed the Council that staff has made an administrative change that has the affect of reducing the fees for a \$25,000 installation by 60%+. He indicated that staff will commence charging these units as electrical only permits, plus the plan check hours approach versus a combination permit. He stated that he would be forwarding a memorandum to the Council that addresses this change. He noted that the Council has directed that the Utility & Environment Committee review other issues and determine whether or not it would be appropriate to use community-wide resources to help these fees to reduce the building permit fees further. He said that the City is required to achieve cost recovery under the law. It is staff's belief that the City would accomplish cost recovery with the approach adopted. However, it would be possible for the Council to appropriate tax dollars to further reduce these fees, if it is determined to that this is an appropriate public policy objective. He stated that the Utility & Environmental Committee will be reviewing this issue later this month.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a City Attorney's report to present this evening.

OTHER REPORTS

Council Member Sellers announced that City Manager Tewes has recently been certified as a credentialed City Manager by the International City Managers Association. It was his understanding that only a few city managers in the entire state and country have so been certified. He acknowledged that it took a lot of work to become a credentialed city manager and that it would require a significant amount of work to retain the credentialing over the next few years. He felt the Council, City and the community should be proud of the City Manager's accomplishment. He commended the City Manager on his achievement.

PUBLIC COMMENT

Mayor Pro Tempore/Vice-chair Tate opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr, the City Council/Agency Board, on a 4-0 vote with Mayor/Chairman Kennedy absent, **Approved** Consent Calendar Items 1 and 2 as follows:*

1. **PUBLIC ART AT THE INDOOR RECREATION CENTER**
Action: Information Only.
2. **CIVIC CENTER PLAZA BENCHES/SEAT WALLS**

Action: **Confirmed** *Library Architectural Elements Desired on Benches, and Sister Cities Concept to Not Be Incorporated in Plaza Design.*

(Note: *See amended action to follow.)*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

3. LIBRARY PROJECT VALUE ENGINEERING AT 75% CONSTRUCTION DOCUMENTS AND COST ESTIMATE

Special Assistant to the City Manager Spier presented the staff report; indicating that the City Council provided the library project team with two standing orders: 1) stay on budget; and 2) stay on schedule. She requested further Council/Agency Board direction regarding staying on budget on the library construction project. She indicated that staff is requesting authorization on six items: 1) value engineer the project to meet the \$17 million project budget; 2) increase the project budget by \$400,000, funding to come from the reallocation from the \$950,000 Sobrato Project funding remaining CIP budget; or 3) increase the budget by those value engineered proposed items the Council/Agency Board would like to include and remove those items it would not like the project team to maintain in the project. 4) Appropriate \$130,000 from the Park Impact Fund to take care of the playground proposed for this project to be located at the corner of DeWitt and Alkire. 5) Recognize that parks maintenance for the fiscal year will need to be increased by approximately \$20,000. 6) Authorization to amend the Noll & Tam contract to reflect the project budget.

Ms. Spier informed the Council that the project has passed the 75% construction document phase and cost review. This review has brought to light the approximately \$400,000 in cost overruns at this time. She indicated that TBI was brought on board to keep the City on budget and that they were willing to make the budget decisions in order to keep the City on track. Staff made the decision to come before the Council/Agency Board to receive further direction on these items. She said that the numbers are off because the numbers do not include the playground allocation. The budget number would be \$531,000, should the City not receive the \$130,000 allocation. She informed the Council that Jim Dumas, senior project manager would be presenting the Council/Agency Board with a brief update on the library project. Gary Dam, Vice-president of TBI, was in attendance to respond to any questions relating to the value engineered items. Also, in attendance this evening was Glenn Ritter to respond to questions regarding construction project support.

Ms. Spier informed the Council that the agenda packet contained a memorandum dated November 21, 2005 that talks about potential enhancements. She indicated that staff was not able to address several of these items as the project is not far enough along to identify precise numbers (e.g., furniture fixtures, equipment, etc.). She said that it is staff's intent that these items would be captured within the current budget, however, it is possible that these enhancements may not be carried on as the City gets closer to the project's cost estimates. She stated that one item that is not included in the project is the children's room enhancement. She indicated that these are items that can be added to the construction project at

any time, and would not affect the schedule or design of the project, should the Council/Agency Board decide to fund these enhancements. As an alternative, the Council/Agency Board can ask that the community fundraise for these enhancements in the amount of approximately \$75,000-\$100,000. She noted that in attendance were Rosanne Macek, community librarian, and Sarah Flowers, county librarian, who could answer questions regarding the design process.

Project Architect Dumas addressed the design of the library, indicating that the design incorporates all the elements contained in the Santa Clara County building program. He confirmed that the project remains flexible and expandable to address future needs, as requested by the Council. He addressed the site design, colors, and materials to be used for the library project. He also addressed the exterior/interior designs and finishes. He said that it has been the previous Council/Agency Board's direction to keep the library project within budget. However, this project is scheduled to be constructed in times when strong and inflationary pressures are being projected in the construction industry. He stated that these increased escalation costs can be value engineered from the project. He said that staff and TBI wanted to walk the Council/Agency Board through the potential value engineer items before proceeding. He noted that there is a Group 1 (minor changes to project) and Group II (major changes to the project) value engineered items identified. He said that staff identified three items that would affect the project's schedule. The others were relatively minor changes that could be made to the project and still remain within schedule.

City Manager/Executive Director Tewes stated that the City's architects are proceeding to design a project that the City can bid shortly after the first of the year. The bid would not include the value engineered items. Therefore, the City's architects are designing a building that would be \$400,000 short of the funding necessary to meet the construction schedule. In the list, staff identified possible/feasible reductions in the scope that could assist the City meet the budget. Should the City value engineer some of the items, it would necessitate redesign; losing some days in some and/or weeks in others, in terms of the schedule. Therefore, there is a relationship between the budget and schedule. He said that the current path is one that the City's architects are designing so that the project will stay on schedule. It is the City's estimate that it would cost the City \$400,000 more than the current budget. He clarified that the items listed on page 9 are suggestions on how the City can achieve the budget limitations with the potential schedule being bumped back for several weeks or a month.

Mayor Pro Tempore/Vice-chair Tate stated that he did not understand the impacts of the value engineered items. He said that he did not want to eliminate any items that are considered important to the project, however, it appears that some of the items may not be important to the project. He said that he would like to know the schedule impact associated with some of the items.

Gary Dam said that what is being suggested is that should there be a strong desire to remain within the \$17 million budget; the value engineered items were identified. He said that every item listed would take away from the library, to some extent. Item 15 is an item that he would probably suggest be eliminated, regardless. He said that during the course of the design, the roof system has changed. The design will be incorporating a regular roof system, saving approximately \$20,000 with no schedule impacts. He indicated that item 16 is the elimination of the recessed flooring. He said that the elimination of this item would not affect the schedule significantly. He said that it is proposed to

hardwire computers in the library, and that it would be a trend to go wireless. He clarified that items 4 through 8 were items that they believe the Friends of the Library would get behind and conduct fundraising efforts to provide these items.

Council/Agency Member Carr clarified that it is the thought that the Council/Agency Board would amend the budget with the hope that these would be projects that the Friends of the Library and/or others would get behind to give thought to fundraising opportunities.

Mayor Pro Tempore/Vice-chair Tate opened the floor to public comment.

Nancie Barker was pleased to see progress being made on the library. She wanted to make sure that the City has adequate funding to build the library everyone is hoping for. She realizes that building costs have escalated in part due to the rebuilding and reconstruction associated with the damage done by the hurricanes. It was her belief that the City needs to look at building a library that everyone can be proud of in the future. She recommended that the City takes the monies from the canceled Sobrato soccer project and reallocate the funds to cover the costs associated with the library. It was her belief that Morgan Hill would receive an excellent payback for any money expended on the library. She indicated that the ongoing operational costs do not impact the City as they are paid for by the County. She felt that individuals of all ages and background enjoy the library. It was her belief that this is the most heavily used facility than any others in the City, and that it would be worth putting money into a facility that is used so heavily by everyone. She felt that \$400,000 would be extremely well spent.

Carol O'Hare, President of the Friends of the Library, stated that the architects and project manager have worked hard to design a new library facility for the community that is both attractive and functional, and still remain within the \$17 million budget. She acknowledged that construction costs have soared without anyone being responsible for this. Therefore, the Council/Agency Board is now faced with a decision to either cut additional items from the library or use additional RDA funds to complete the project desired. It has been stated that there is approximately \$950,000 of available RDA funds. It was her opinion that there is only one thing for the Council/Agency Board to do: to allocate \$380,000 as the City has identified a project savings of approximately \$20,000 this evening. Doing so would give the community the best possible library. She informed the Council that the Friends of the Library are committed to supporting the new library through fundraising efforts in order to have the best library building possible.

George Nale, Secretary of the Sister Cities Association, indicated that he was in attendance to address Consent Calendar Item 2 on behalf of John Foggiano, president of the Sister Cities Committee, as he was not able to attend this evening's meeting. He expressed concern with the recommendation made by the Library, Culture & Arts Commission regarding the outdoor benches in the new library plaza. He felt that there may have been a communication breakdown among the organizations. He indicated that for several years, the Sister Cities group and, at times, the Library Commission, have talked about benches being a good possibility for highlighting sister cities on an ongoing fashion. The Sister Cities Association would like the City to provide an international connection for the community about the City's sister cities. He said that Dr. Figotto thought he had earlier received a message that the Library Commission was accepting the Sister Cities Association's proposed ideas for design features and

accepting responsibility for getting them implemented. He said that the Sister Cities Committee would agree to accept the responsibility for maintaining and updating the material to be placed on the benches. He indicated that the Sister Cities Association has viewed the plaza as an integral part of the civic center rather than being library exclusive. He informed the Council/Agency Board that the Sister Cities Committee received a presentation from City staff on November 9 where they selected a bench-type from those presented that they felt would be appropriate. The Sister Cities Committee was surprised by the Library Commission's recommendation which predated this presentation by 2-3 weeks. It is also their understanding that the Library Commission's recommendation that the Sister Cities Committee's flag poles in the plaza area would not be feasible, nor could be accomplished. It was his hope that the Council/Agency Board would hold off acting on this item until such time that Mr. Foggato is available to plead their case, or understand the objections of the Sister Cities' long standing plan.

Mayor Pro Tempore/Vice-chair Tate noted that Mr. Nale was addressing item 2 previously acted upon on Consent Calendar. He inquired whether there was any desire to reconsider "accepting the report" as listed. He indicated that he was in attendance at the last Library, Culture & Arts Commission meeting where they made a recommendation that the Council approved. He indicated that there was confusion and communication problems between the Commission and the Sister Cities Committee. He would like to see if there was a way to sort out the confusion, independent from the Council/Agency Board.

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Grzan, the City Council/Agency Board, on a 4-0 vote with Mayor/Chairman Kennedy absent, **agreed** to reopen agenda item 2.*

2. CIVIC CENTER PLAZA BENCHES/SEAT WALLS (reopened for discussion/action)

Council/Agency Member Sellers noted that Mayor/Chairman Kennedy had significant involvement on this issue, therefore, he felt it appropriate to defer action on this item until the Mayor is able to attend the meeting and participate in the discussions. He noted that it was mentioned that there was some confusion and miscommunication between the two organizations. He inquired whether a delay of this item would cause any issues. If so, how long of a delay would be prudent?

Ms. Spier indicated that staff is designing the plaza with seat walls. Therefore, seat walls would be included in the project no matter the decision. It is a question of what the seat walls would look like.

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr, the City Council/Agency Board, on a 4-0 vote with Mayor/Chairman Kennedy absent: 1) **Rescinded** its previous action to accept the report; and 2) **Directed** that this item be rescheduled for a subsequent Council/Agency Board meeting, to be determined by staff, with the hope that the Library, Culture & Arts Commission and the Sister Cities Committee get together in the meantime.*

3. LIBRARY PROJECT VALUE ENGINEERING AT 75% CONSTRUCTION DOCUMENTS AND COST ESTIMATE (continued discussion)

Bert Berson stated his support of the comments expressed by Ms. Baker and Ms. O'Hare. He clarified that there would be no ongoing costs associated with the operations of the library once built. He addressed the return on investment issue. He said that if you look at cities within the bay area, the places with the highest housing prices tend to be places with the best education system. He said that individuals go as far as looking at specific school districts as a decision factor in choosing a house. While individuals in the community enjoy the Aquatics Center and the Community & Culture Center, he does not believe individuals would move to Morgan Hill because of these two facilities. Individuals would move to Morgan Hill if the education system represents quality. He felt that a library would be a strong factor in this and that the new library would allow the City to attract more affluent individuals; generating additional sales tax dollars. He recommended that the Council/Agency Board fund the library according to the proposal with the rationale that the City is serving itself in a financial sense.

No further comments were offered.

Council/Agency Member Sellers indicated that the Council/Agency Board value engineered significant items out from the Aquatics Center, Community & Culture Center and the Indoor Recreation Center. He noted that the Council/Agency Board made a statement that it wanted to hold to a library at \$17 million. This lends one to state that the City needs to keep to the budget and go through the process of eliminating items. More so than other facilities, he felt the library makes a statement of what kind of community we are. He does not believe the library needs to be an extravagant facility; noting that it will not be as currently designed. However, it does need to be a facility that is welcoming and includes all of the elements that will make it an accommodating facility for all individuals who will use it; making a statement to the rest of the world about the value the City holds as a community. He said that as the Economic Development Committee chair, he and Council Member Carr suggested a delay on the decision on what the Agency Board should do with the remaining \$950,000 because the Committee wanted to see what would happen to the library project. He said that there have been a number of events in world activities that have made construction costs much more significant than they were a year ago. The Committee did not want to make decisions only to undo them until it had an idea of what the library would cost. Having gone through this process, understanding that there would be extra costs associated with the library project, he recommended the Agency Board allocate \$380,000 to the library from the former Sobrato Soccer fund as it would be appropriate to use these funds to make sure the library is made whole, making it the facility everyone wants it to be.

Council/Agency Member Grzan said that a project of this size usually has a contingency fund set aside to cover additional costs. He inquired whether contingency funds were set aside for this project.

Mr. Dam responded that the library project includes a contingency fund and that it remains in the project. He said that they would like to take into account the potential escalation that would take place between now and the completion of the library project. It was his understanding that the library would commence construction as early as March 2007, however, it will take a year to build it. As contractors are bidding on the library project, they will take into account escalating costs from the time they bid to the time they actually do the work. The project team is trying to maintain the escalation costs within the project. The project team is also maintaining the contingency factor for the project.

Council/Agency Member Grzan stated that he has always been supportive of the library and that he would continue to support the actions presented this evening. He further stated that he had an opportunity to attend the League of California Cities. At the conference, he noted that the City of Mt. View won a Helen Putnum Award for excellence for its use of the library; particular the teen zone designed within the library. He indicated that a portion of the library included teen librarians, seating and computers reserved for teens after school and weekends, new books, music, DVDs, magazines, and comfortable chairs around the fireplace for relaxing or playing games. He indicated that he previously recommended that a fireplace be incorporated into the library design. It stated that a fireplace that uses natural or fuel efficient materials is an amenity that he would support above and beyond what has been allocated in this budget. He felt there was still an opportunity to include additional amenities that are appropriate and that would bring about an award winning program to the community. It was his belief that libraries are activity and learning centers, and that the City should support this type of an approach instead of the static/passive approach libraries have been known for. He felt that an active/learning center would be better for the community. He recommended the Council/Agency Board do more than what is being recommended this evening.

Council/Agency Member Carr indicated that he was supportive of making sure the Council/Agency Board builds the project it said it was going to build. He challenged the Friends of the Library and others interested in finding ways to help support the library; noting that everyone will be good users of the library. He acknowledged that most individuals in attendance this evening have been library supporters for quite some time. He would be encouraged to hear how the Friends of the Library would help fund some of the items, particular the items identified by staff as potential fundraising categories. He felt that once the ground breaking ceremony is held, individuals who have been skeptics will have their minds changed, and that this would be the best time to have individuals assist with funding. He recommended that as the project moves forward, staff will identify other items that can be eliminated similar to item 15; the cost savings that will not change the function of the library or the timing of the project. He felt that the City should figure ways of pursuing items that would not change the function of the library as well.

Mayor Pro Tempore/Vice Chair Tate thanked the Council/Agency Board for its support of the library. He noted that when the Council approved the \$17 million budget for the library, it was stated that this was the absolute budget limit. He could not support the motion because he feared that this evening would arrive and the Council/Agency Board would automatically state that it needs to maintain the \$17 million budget. He said that an action by the Council/Agency Board to make the library whole is fulfilling.

Council/Agency Member Carr inquired whether it was prudent for the Council/Agency Board to approve a budget allocation of \$380,000 versus \$400,000.

Project Manager Ritter indicated that an additional \$20,000 would not be enough to fund the fireplace that Council/Agency Member Grzan is recommending, however, it would help with the installation of some sort of fireplace.

Council/Agency Member Grzan recommended that the amount be increased.

City Manager/Executive Director Tewes noted that the City has a library design that is now 80% underway. Should the Council wish to incorporate a fireplace into the design, the Council/Agency Board would need to allocate additional funding and slow down the project.

Mayor Pro Tempore/Vice-chair Tate stated that he did not want to slow down the project.

City Manager/Executive Director Tewes noted that the Council/Agency Board has maintained the opportunity for expandability of the library and that the fireplace could be included in the subsequent phase of the library.

Redevelopment Agency Board:

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Carr, the Agency Board, on a 4-0 vote with Chairman Kennedy absent, **Increased** the Project Budget by \$380,000 to Fund the Value Engineered Items from the Unallocated Sobrato Soccer CIP Budget of \$950,000.*

City Council:

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Appropriated** \$130,000 from the Park Impact Fund 301 to Fund the Neighborhood Playground on the corner of Dewitt & Alkire at the Civic Center Site.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Recognized** that the Parks Maintenance Budget will Need to be Increased by Approximately \$20,000 in Fiscal Year 2006-2007 to Fund the Maintenance Contract of the Increased Civic Center Site.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Authorized** the Amendment of the Noll & Tam Agreement to Increase by \$20,000 the Approved Fees for Document Clarification with no Impact to the Project Budget.*

4. SELECTION OF CITY COUNCIL MAYOR PRO TEMPORE AND REDEVELOPMENT AGENCY VICE-CHAIR

Mayor Pro Tempore/Vice-chair Tate indicated that Mayor/Chairman Kennedy requested that the selection of City Council Mayor Pro Tempore and Redevelopment Agency Vice-chair be delayed until such time that he can attend the meeting where this item will be discussed/acted upon.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Continued** this item to December 7, 2005.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor Pro Tempore/Vice-chair Tate adjourned the meeting at 7:50 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY